

150,000 jobs saved or created by the end of 2010. State highway departments have already identified more than 100 transportation projects throughout the country, totaling more than \$750 million, where construction can start within the month. In other words, we have already undergone all of the environmental requirements. We have the environmental impact statements. We are ready right now. In my State of Oklahoma, we have \$1.1 billion worth of work that could be started tomorrow.

Now, President Obama stated that the projects funded under the ARRA are deemed so important to America's economic recovery that they will bear a newly designed emblem. The emblem is a symbol of President Obama's commitment to the American people to invest their tax dollars wisely and to put Americans back to work. Rest assured that section 429 of the omnibus bill will not bear this emblem.

I applaud the President for highlighting infrastructure spending as a main driver of immediate job growth in the stimulus plan, but I am concerned by the conflicting priorities created by section 429. You cannot support large infrastructure spending as an economic stimulus while simultaneously endangering its translation into job growth with more redtape.

The Murkowski-Begich amendment correctly requires that if these ESA rules are withdrawn or revised, the action is subject to the requirements of the Administrative Procedures Act, with at least a 60-day comment period. This is a good government amendment. The fact that this amendment is even needed to restore the public participation protections is exactly the sort of nonsense that makes the American taxpayer so suspicious of Congress. From the public's perspective, the effect of this amendment would be to bring us back to the longstanding process where the agencies may withdraw and revise regulations by following the law established to do so.

We have heard from the Democratic managers of this bill that nothing new was added to this bill since last year. We have been told there is no controversial legislative language in this bill.

We have been misinformed. This rider was not a part of the negotiations or the appropriations bills last year, and I assure you, it is very controversial. I urge the leadership to allow the Senate to vote on the Murkowski-Begich amendment, and I ask for my colleagues' support for ensuring regulatory transparency.

I believe this is very important because, without this, there is so much uncertainty as to what the application would be in terms of the Endangered Species Act. So I encourage the adoption of that amendment.

I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. GILLIBRAND). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. INHOFE. Madam President, it is my understanding we are in a period of morning business. I ask unanimous consent to be recognized for what time I shall consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIRNESS DOCTRINE AND LOCALISM

Mr. INHOFE. Madam President, last week I joined 86 of my colleagues to pass Senate amendment No. 573, offered by Senator DEMINT to the DC Voting Rights Act, which prohibited the Federal Communications Commission from reinstating the fairness doctrine.

This has become an issue over the years where you can recall the action that took place back in the middle 1980s—I think 1986—that recognized the fact that we have so many opportunities for people to get at information that it is no longer necessary to have what they call the fairness doctrine.

Last week's vote was the first nail in the coffin of the fairness doctrine, but it was not the end of the attempt on the part of some people to regulate the airwaves. I have long been outspoken on this issue. It gives me great satisfaction that so many of my colleagues voted in favor of free speech over Government regulation last week. But the debate has changed. In a straight party-line vote, Democrats chose to adopt Senator DURBIN's amendment No. 591, which calls on the FCC to "encourage and promote diversity in communication media ownership and to ensure that broadcast station licenses are used in the public interest."

Essentially, it makes an end run around the fairness doctrine. Those on the other side of the aisle believed this would allow them to proclaim their opposition to a reinstatement of the fairness doctrine, which has always been a losing issue for them, while at the same time replacing it with an equally heinous piece of legislation that gives the FCC unfettered authority to interpret that language however they please.

So we have potentially taken away the threat of the fairness doctrine, which requires broadcasters to "present controversial issues of public importance in an equitable and balanced manner," and replaced it with "encouraging and promoting diversity in communication media ownership." At least with the fairness doctrine, broadcasters had an initial choice of how to interpret "controversial issues of public importance" before answering

to the FCC, but this new authority gives all the power to a Government agency and none to the people of the broadcast industry.

One thing I know: When you take choice out of the market, and when you impose the Government's will on an industry, that market and that industry will suffer, and that is exactly what Senator DURBIN's legislation attempts to accomplish. What was once the fairness doctrine has now become the Durbin doctrine.

What, I ask, does "encourage and promote diversity in communication media ownership" really mean? I certainly cannot tell you what it means, and that is what concerns me because it is up to someone else's interpretation. The legislation offers no words of clarification or specificity. If I were an FCC commissioner, I would not know what to do with this language, and in any other line of work, I would send it directly back with a little note attached asking to please be more specific. But Federal agencies love this kind of language because it gives them greater leeway to interpret it however they like—which could be interpreted differently by different governmental agencies—and impose their will upon the industry they regulate.

My Democratic colleagues who promoted this amendment like this type of language because it, first, means that they do not have to spend the time drafting quality legislation aimed at solving a specific problem, and, two, it means they can disavow their true intention of having greater Government regulation of the airwaves. Now, at the same time, they can say: Well, I voted for the DeMint amendment. So that offered cover for these individuals.

This legislation is so incredibly vague and so potentially far reaching that I cannot say with any certainty what the end result will be. This is not good governance, and it is not good legislative practice to cede such authority to any agency of our Government, especially when the right to speak freely over the airwaves will most certainly be impacted.

Another threat to our freedom of speech is a stealth proposal called "localism," which could force local radio stations to regulate the content they broadcast. It is important to note that "localism" as FCC policy already exists, but new policies that have been proposed reach far beyond ensuring that broadcasters serve their local communities.

The FCC gave notice of proposed rulemaking. This was back on January 24, I believe it was, of 2008. While the regulations were ultimately dropped, they are indicative of future attempts to regulate the airwaves through localism and something about which all Americans need to know.

Among other things, the proposal would have required radio stations to, one, adhere to programming advice from community advisory boards; two, report every 3 months on the content

of their programming, the producers of their programming, and how their programming reflects community interests; and, three, meet burdensome license renewal requirements.

The localism rule, had it been promulgated, would have meant that radio stations would have to comply with blanket regulations and broadcast programming that may not be commercially viable, rather than taking into account the diverse needs of communities across the country.

One of my constituents, Dan Lawrie, who is vice president and manager of Cox Radio Tulsa, and president of the Oklahoma Association of Broadcasters, stated that:

regulations requiring additional and unnecessary documentation of programming in order to show proof of broadcasting that we already provide to our local communities is entirely unnecessary. To burden our Tulsa radio group with this type of ascertainment documentation would cause us to lay off several staff members to offset the expense of completing the increased paperwork.

As you can see, this is a real threat to broadcast media as a whole.

Let's look at this from a market standpoint. I have often said: People who think maybe the content is too progressive or not progressive enough or too conservative—I have heard some pretty heated accusations made at various popular talk radio hosts—forget about the fact that this is market oriented. The market is determining how this should be. I can remember it was not too long ago—last year—I believe Senator HARKIN wanted to regulate the type of content that was going over the airwaves to our troops who were listening overseas, and we were able to stop that because they overwhelmingly wanted, in their eyes, conservative content to be broadcast. We won that one. But the effort is still out there.

Look at it from a market standpoint. Stations strive to endear themselves to the local community to be successful. It makes programming sense to cover local news and events because it increases the ratings. Why should Washington regulate what local stations are already doing? They are doing this now because people who listen to the radio may want to hear some talk show host, but you find right through intermingled within these comments, every 15 minutes or so, or every 10 minutes, they stop and tell what the local weather is, they tell of different activities, what is happening in the local community. They are doing this already. That is just good business sense, and that is why in the highly competitive environment we find our local radio stations, they have to do these things. They are already doing it.

The reason is this: These community advisory boards, or local content boards, coupled with the threat of license renewal requirements, are just one more way liberals can affect what is broadcast over the airwaves. They have created a regulatory avenue by which to accomplish their goal of silencing talk radio because they are in-

capable of competing in the broadcast radio market.

President Obama has expressed support for new localism regulations, and it is expected to come up again under his administration. All those who value their right to listen to the things that are important to them, and important to their community, must be aware of the great potential for infringement on free speech that localism will bring.

What is perhaps most concerning to me is the enforcement procedure for breaches of localism and diversity promotion. We simply do not know which pathway the FCC will choose when it comes time to enforce these nebulous regulations. License revocation is a real threat to the willingness of the broadcasters to appeal to their market rather than to conform to FCC regulations. Senator DURBIN's amendment requires affirmative action on the part of the FCC, stating: "The Commission shall take actions to encourage and promote diversity." It doesn't stipulate what actions or to what degree but instead leaves the enforcement mechanism up to the determination of the FCC. I find this to be extremely dangerous.

Any enforcement of Government regulation of the airwaves could have a serious detrimental effect, not only on talk radio but also on the willingness of Christian broadcasters to air political and perhaps even religious messages. It is well known that the only radio station ever taken off the airwaves was a Christian radio station, WGCB in Red Lion, PA. In that particular instance, the supposed offense was a personal attack against the author of a political publication. The ACLU and other liberal organizations could attempt to file lawsuits against anyone who presents a message that they deem to be counter to Federal localism and diversity regulation, and though I believe these lawsuits would ultimately fail on first amendment grounds, the chilling effect that the mere threat of a lawsuit will have on religious broadcasters could be substantial.

Free speech is fundamental to what it means to be an American, and we must protect it. Reimposing any form of a fairness doctrine threatens first amendment rights. Some on the left of the political spectrum are frustrated that more talk show hosts have conservative political leanings than liberal political leanings. In response, I say the content is market driven. When the market is on the other side, they will do that. The market has worked well throughout the history of this country, and people listen to it.

I think we are also forgetting about the fact that the broadcasting industry is very competitive. We have companies that own broadcast media. They are not making a lot of money. It is competitive. A lot of them go broke every year. What they are trying to do is come up with something they know people want and is sellable. They de-

pend on people buying advertisement for them to exist. So this is what this is all about. I believe there are two attacks out there. I applaud Senator DEMINT for the language he was able to get in, and I applaud all the Republicans and most of the Democrats for voting for it. But to turn around and pass something that undoes what he did with that amendment I think is something that needs to be looked at.

So I am concerned. I am concerned that so many of these stations out there that are right on the border of surviving in this very difficult economy we have are now looking at another threat, another bunch of regulations that are there, as well as the fear of the unknown, the nebulous language that says what a localism is, what power does the local community have. So that is a difficult thing.

I will only say to those individuals who think the problem of the fairness doctrine being reinvented is not over: It is there, and our first amendment rights are threatened at this time.

I would anxiously pursue any effort we can that is going to preclude the fairness doctrine, and I think the first thing we should do would be to rename the fairness doctrine because it is certainly not fair and not fair to the people in the broadcast industry.

SECRETARY OF STATE VISIT TO THE MIDDLE EAST

Mr. LIEBERMAN. Madam President, Secretary of State Hillary Clinton is in the Middle East this week on her first trip to the region as America's top diplomat. The Secretary traveled to Egypt earlier in the week to attend the international summit in Sharm El Sheikh, and she is now visiting Israel and the Palestinian Authority.

I rise to praise Secretary Clinton for the strong and principled diplomacy she has undertaken on America's behalf on this trip, that is as reflected in her comments, both prior to her departure from Washington and since arriving in the region.

Secretary Clinton is no stranger to the Middle East, having spent significant time there as First Lady and then as our colleague in the Senate. As a result, she brings a depth of familiarity with the Middle East's complexities and challenges, an appreciation for our friends and allies in the region, and a clear-eyed understanding of the interests and values that must guide American foreign policy there.

In particular, I believe Secretary Clinton deserves praise for her strong statements on this visit strengthening the forces of moderation in the Middle East and challenging the forces of extremism. Having recently returned from the region myself, I am convinced, with a clarity greater than ever before, that the true dividing line in the Middle East today is not between Arabs and Israelis or between Sunni Muslims and Shia Muslims. The true dividing line in the Middle East today is between moderates and extremists.